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Letter dated 25 October 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 6 August 2002 (S/2002/910).

The Counter-Terrorism Committee has received the attached supplementary report from Yemen, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 17 October 2002 from the Permanent Representative of Yemen to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

With reference to your letter dated 15 July 2002 (reference S/AC.40/2002/MS/OC.128), regarding the Yemeni Government's report on anti-terrorism measures, I have the honour to enclose herewith the reply to the above-mentioned letter.

(*Signed*) Abdullah M. **Alsaidi**
Ambassador
Permanent Representative

Enclosure

[Original: Arabic]

Paragraph 1 (a)

Response

The Central Bank of Yemen has undertaken to designate entities and individuals whose financial support must be stopped, pursuant to letter No. RW/35/3513 of the Prime Minister, dated 3 October 2001, and letter No. (1)/156/102/1553 of the Minister for Foreign Affairs, dated 2 October 2001, on the basis of Security Council resolution 1373 (2001) and the resolution adopted by the Council of Ministers at its session of 2 October 2001.

The Central Bank of Yemen has issued the necessary instructions to all banks operating in the Republic of Yemen, as follows:

1. Circular No. 81206 of 4 October 2001 contains 27 names of organizations and persons whose assets are to be frozen;

2. Circular No. 8735 of 18 October 2001 contains 39 names of companies, individuals and entities;

3. Circular No. 99230 of 24 November 2001 includes two lists, the first containing the names of 16 organizations and the second, the names of 62 individuals and organizations.

The instructions issued by the Central Bank included the reporting of banks, organizations and individuals whose accounts must be frozen, any funds frozen and any other information relating to any name appearing in the list.

Paragraph 1 (b)

Response

Act No. 1 of 2001, on non-governmental associations and institutions, is composed of 88 articles grouped into eight chapters, as follows:

Chapter I includes names, definitions and purposes;

Chapter II contains the rules governing the establishment, registration and announcement of non-governmental associations and institutions;

Chapter III deals with the administration of non-governmental associations and institutions and their financial resources;

Chapter IV deals with the dissolution, liquidation, merger and splitting of non-governmental associations and institutions;

Chapter V contains texts and provisions relating to non-governmental institutions;

Chapter VI relates to federations;

Chapter VII treats of penalties;

Chapter VIII deals with final judgements.

The Act is intended to foster non-governmental associations and institutions and encourage them to participate in comprehensive development and not to go against the objectives of the Constitution and the legislation in force.

The Act grants the Ministry of Social Security and Social Affairs and its offices in the capital and the governorates legal oversight over non-governmental associations and institutions and their activities.

It establishes penalties ranging from fines to imprisonment for anyone who undertakes an activity or spends money in violation of the purpose for which the association or institution was established.

The Republic of Yemen makes every effort to circulate such conventions among the authorities concerned so that they may act in accordance with them; the Government monitors implementation.

Paragraph 1 (c)

Response

The Central Bank of Yemen has issued instructions concerning suspicious funds to all banks and exchange offices operating in the Republic of Yemen. The instructions are based on the "Know your customer" principle. They also call for taking precautions in cases that so require, obtaining complete data and applying the notion "Keep your money, keep your records". For example, the instructions require an inquiry into the identity of anyone not having an account with the bank who requests the transfer of an amount exceeding $10,000 or the equivalent in other currencies. The same procedure is applied in the case of transfer recipients. In all cases full particulars are obtained.

There are no relevant provisions in the Banking Act. However, article 25 (1) (a) requires every bank or financial institution designated in a decision issued by the Central Bank of Yemen to provide to the Central Bank a monthly report containing the following information:

(a) The balance of credit offered by the bank or financial institution concerned;

(b) A list of loans and credit facilities amounting to 10 million rials or more, with the names of the borrowers, maturity dates and guarantees provided for them;

(c) A list indicating the names of persons having taken out loans the repayment of any part which is 90 days overdue and the amount of the outstanding balance due.

2. The Central Bank prepares a consolidated statement showing the facilities granted to all client banks, permissible overdraft amounts, guaranties provided and a record of late payment of loans by all borrowers, without indicating the names of the granting banks.

3. Any bank or financial institution designated in a decision issued by the Central Bank has the right to examine the consolidated statement with regard to any client that requests credit facilities from it. The Central Bank does not assume any liability with respect to the data contained in such consolidated statements or their publication.

Under the Banking Act (Act No. 38 of 1998), the freezing of deposits is not contingent upon the existence of a verdict of guilty of the commission of a crime.

The Public Prosecutor has the power to take precautionary measures until investigations and trial proceedings are conducted.

Paragraph 1 (d)

Response

Detailed outline of the provisions of Act No.12 of 1994. This Act, which relates to offences and penalties, contains 225 articles divided among 13 chapters. It defines the various types of crimes and enumerates the related penalties. One chapter is devoted to offences relating to State security and internal security (such as armed rebellion and membership in armed bands). It also contains a chapter devoted to crimes involving public danger (such as arson, explosions, the jeopardizing of transport and communication means and the possession and transportation of and traffic in explosives. In addition, the Act contains provisions relating to crimes affecting the national economy.

Concerning the laws and procedures in force for regulating alternative remittance systems, including systems of, or similar to, the kind known as "hawala", the following can be said:

A. Means of remittance at present are the traditional means, consisting in the following:

1. Cash;
2. Cheques;
3. Transfers (hawalat).

B. The procedures and laws governing traditional remittance systems are as follows:

1. The Central Bank Act (Act No. 14 of 2000);
2. The Financial Code (Act No. 8 of 1990);
3. The Commercial Code (Act No. 32 of 1991);
4. The Civil Code (Act No. 14 of 2002);
5. The Exchange Act (Act No. 20 of 1995);
6. Customary banking practices.

C. The Central Bank has issued instructions to banks and exchange establishments in the Republic of Yemen relating to the following:

1. Ascertainment of the identity of persons not having an account with the bank who request the transfer of sums of money greater than $10,000 or the equivalent in other currencies;

2. The application of the same provisions to the payees of transfers. In all cases full particulars are obtained.

D. Requirements:

1. Training of managerial staff in the various aspects of banking.

Paragraph 2 (a)

Response

Chapter IV of the Yemeni Constitution deals with the fundamentals of national defence. Article 36 provides that the State establishes the armed forces, the police and security organs and any other forces, which belong to the entire people and whose duties are to protect the Republic and its territorial integrity and ensure their security. No individual, group, organization or political party has the right to establish military or paramilitary formations or forces for any purpose or under any name whatsoever.

Article 8, paragraph 6, of Act No. 66 of 1991, on political organizations and parties, provides against the following:

(a) Establishment of military or paramilitary formations or assistance in their establishment;

(b) The use, threat of use or incitement to use violence in any form;

(c) The inclusion in the programmes, publications or printed materials [of an organization] of any incitement to violence or the creation of open or secret military or paramilitary formations.

Practical measures adopted to prevent terrorists obtaining weapons:

Outside the territory of the State:

- The placing of tight controls on sea, air and land exit/entry points to prevent the infiltration of weapons, and the equipping of those exit/entry points with computerized monitoring systems;
- Control of the Yemeni coast by the Coast Guard Department, which is still in process of being set up and requires support and assistance.

Within the territory of the State:

- Control of places where weapons are sold;
- The placing of tight controls on the importation and transporting of explosives, the importing of which is authorized for the execution of development projects and related civil and military works;
- Act No. 40 of 1992 on the bearing of and trade in firearms and ammunition and the related implementing regulation, issued by Republican Decree No. 1 of 1994. The Act regulates the bearing of firearms and makes trading in them subject to a licence issued by the Minister of the Interior. It further provides for the confiscation of weapons which are in violation of the law and the regulation.

Paragraph 2 (b)

Response

A number of agencies deal with counter-terrorism (Central Political Security Agency, Ministry of the Interior — Counter-terrorism Department; in addition, a National Security Agency is currently being created). General policies and measures in the area of counter-terrorism are decided by the Government and each agency assumes the role assigned to it.

To ensure effective counter-terrorist activity, coordination takes place from time to time among the agencies concerned, even including the creation of a crisis management team whenever necessary.

Each agency establishes its own plans and programmes on the basis of the general policies set by the Government. The distribution of functions is effected within the framework of inter-agency coordination.

The mechanism currently available operates through bilateral communications between the competent agencies as well as through the diplomatic missions and the International Criminal Police Organization (Interpol) within the framework of the machinery of the Arab Convention for the Suppression of Terrorism.

Paragraph 2 (c)

Response

Act No. 47 of 1991, concerning alien entry and residence, together with its implementing regulation No. 4 of 1994, deals with the modalities of the entry of aliens into the territory of the Republic of Yemen and the procedures for their registration after entry and also contains provisions relating to residence permits. The Act gives the Minister of the Interior the power to expel any alien pursuant to a decision of the Deportation Committee provided for in the Act. Finally, the Act devotes a chapter to penalties, ranging from a fine to imprisonment, for the illegal entry of any alien into the territory of the Republic or for failure to comply with a deportation decision issued by the Minister.

Yemen is one of the countries that have suffered from terrorism. Yemen does not export terrorism, but is rather the target of exported terrorism. Its attitude towards the conventions on that subject is the same towards States that are parties to those conventions and States that are not, just as the Arab Convention for the Suppression of Terrorism is all-inclusive and does not operate in a context of inequality between Arabs and non-Arabs.

Paragraph 2 (d)

Response

Act No. 24 of 1998, on combating kidnapping and armed interception, provides a number of penalties, including the death penalty in case of the person who heads a band for kidnapping, armed interception or the looting of public or private property.

It calls for a penalty of 12 to 15 years' imprisonment for anyone who kidnaps a person, increased to 20 years if the kidnapping involves a female or a youth.

It provides for a penalty of 10 to 15 years' imprisonment for anyone who seeks, in a foreign country or a band, to commit any act of kidnapping, armed interception or looting of public or private property.

The Act further establishes a penalty of 10 to 12 years' imprisonment for anyone who hijacks any means of air, land or sea transport, the penalty being increased to 15 years if any person is injured as a result of the hijacking.

In cases where persons are taken hostage for the purpose of exerting pressure on public authorities or obtaining a benefit or advantage, the Act provides for a penalty of 10 to 12 years' imprisonment.

In the case of assault by any person on any individual charged with combating the crimes of kidnapping, hijacking, armed interception or looting during the performance of that individual's duty, the penalty is from 7 to 10 years' imprisonment, the said penalty being increased to 15 years if the assault results in bodily injury.

The penalty provided by the Act for assisting a kidnapper or hijacker or for concealing a kidnapped person or objects hijacked or seized is 5 to 8 years' imprisonment.

List of bilateral security instruments concluded by the Republic of Yemen with other States:

1. Agreement on security cooperation between the Republic of Yemen and the former Soviet Union;

2. Agreement on cooperation in the field of narcotics between the Republic of Yemen and Saudi Arabia;

3. Agreement on security cooperation with Libya;

4. Agreement on security cooperation with Saudi Arabia;

5. Agreement on security cooperation with Ethiopia;

6. Agreement on security cooperation with Jordan;

7. Agreement on security cooperation with Egypt;

8. Agreement on security cooperation with Djibouti;

9. Agreement on security cooperation with Algeria;

10. Agreement on security cooperation with Qatar;

11. Agreement on security cooperation with Eritrea.

Regarding international agreements, please see the response to question 3 (d) in the report submitted by Yemen to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001).

Paragraph 2 (e)

Response

Competence of the courts of Yemen to deal with criminal acts of various kinds:

Under Yemeni law, Yemeni courts are competent to try persons who have committed crimes outside the territory of the Yemeni State, subject to three conditions, namely:

1. That the act committed is considered a crime under Yemeni law;

2. That the person has returned to the territory of the Republic of Yemen;

3. That the act constituted a punishable offence under the law of the State in which it was committed.

This is clearly stated in article 246 of the Code of Criminal Procedure (Act No. 13 of 1994), which provides as follows: "The Yemeni courts are competent to try any Yemeni who has committed, outside the territory of the State, an act considered an offence under Yemeni law, provided that he has returned to the Republic and that the act is punishable under the law of the State in which it was committed".

Under Yemeni law, Yemeni courts are competent to try foreign nationals who have committed an offence outside the territory of the Yemeni State in a number of cases, namely:

- If the person has committed an offence prejudicial to the security of the Yemeni State;
- If the person has committed crimes of imitation or falsification of official seals of the Yemeni State or of any public agency therein;
- If the person has committed the crime of counterfeiting a national currency in lawful circulation in the Yemeni State, removing such currency from the territory of Yemen in a manner contrary to law or obtaining it for the purpose of circulating it or operating with it in unlawful ways that adversely affect the Yemeni national economy.

In this regard, article 247 of the Code of Criminal Procedure provides as follows:

> "The Yemeni courts are competent to try any person who commits, outside the territory of the State, an offence prejudicial to the security of the State, as provided in book two, chapter I, of the Penal Code, or the crime of imitating or falsifying seals of the State or of any public agency or of counterfeiting a national currency in lawful circulation, exporting such currency or obtaining it for the purpose of circulating it or operating with it."

The competence granted to the Yemeni courts under the said article is general, comprising the trial of "any person who commits ...", whether the perpetrator of the offence is a Yemeni or foreign national and whether he is resident within or outside the territory of the Republic of Yemen.

Article 17 (2) of the Code of Criminal Procedure, moreover, provides as follows: "The Code of Criminal Procedure applies to citizens as well as to nationals of foreign States and stateless persons". The article states that Yemeni law applies to

aliens resident in Yemen, as mentioned in the preceding article. With regard to the competence granted to Yemeni courts, if an alien resident in Yemen commits, outside the territory of the Yemeni State, one of the offences mentioned in article 247 of the Code of Criminal Procedure, the Yemeni courts have trial jurisdiction. The question of which trial courts are competent (i.e., which courts are by law granted competence for such trials) is answered in a general way in article 236 of the Code of Criminal Procedure, which provides as follows:

1. If an offence to which the provisions of Yemeni law apply occurs outside the country and the perpetrator does not have a known place of residence in the Republic and has not been apprehended there, a criminal action shall be instituted against him before the courts of the capital;

2. If the offence is committed partly outside the Republic and partly within, the court within whose jurisdiction the place where the acts were perpetrated within the Republic is located shall be competent locally.

Article 234 of the Code of Criminal Procedure provides as follows:

1. Jurisdiction shall be determined locally by the place where the offence took place, the place in which the accused is resident or the place in which he was apprehended. The jurisdiction of the court before which the action was first instituted shall remain unchanged.

2. In the case of an attempt, the offence shall be deemed to have been committed in every place where an attempt at perpetration was made.

Articles 234 and 236 clearly determine which courts are competent and to which courts jurisdiction is attributed by Yemeni law for trying cases in which the offence is committed outside the territory of Yemen, as follows:

- If the person has no known residence or has not been apprehended in the territory of the Republic and has committed an offence outside that territory, competence for trying him shall belong to the courts of the capital.
- If the person has committed, outside the country, an offence provided for in article 246, in the case of Yemenites, or article 247, in the case of aliens, and has a known residence in Yemen or was apprehended anywhere in Yemen, the competent court shall be that within whose jurisdiction the accused person is resident or was apprehended or that before which the action was first brought.
- Article 234, mentioned above, provides a response to the part of this question that reads "or habitually resident in Yemen", inasmuch as the court within whose jurisdiction the accused is resident is competent to try him if he is an alien habitually resident in Yemen.

Paragraph 2 (f)

Response

List of the bilateral and multilateral conventions on mutual assistance in criminal matters and on extradition to which Yemen is party

	Name of convention	*Type*	*Date of ratification or accession*
1	Arab Convention on Judicial Cooperation	Multilateral (Arab)	1984
2	Arab Convention Against Narcotic Drugs and Psychotropic Substances and Illicit Traffic in them	Multilateral (Arab)	1998
3	Arab Convention for the Suppression of Terrorism	Multilateral (Arab)	1999
4	Agreement on Judicial and Legal Cooperation between Yemen and Jordan	Bilateral	1998
5	Agreement on Judicial and Legal Cooperation between Yemen and Tunisia	Bilateral	2001
6	Convention on the Prevention and Punishment of the Crime of Genocide	Multilateral (international)	9 February 1987
7	Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity	Multilateral (international)	9 February 1987
8	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Multilateral (international)	5 November 1991
9	Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field	Multilateral (international)	16 July 1970
10	Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea	Multilateral (international)	16 July 1970
11	Geneva Convention relative to the Treatment of Prisoners of War	Multilateral (international)	16 July 1970
12	Geneva Convention relative to the Protection of Civilian Persons in Time of War	Multilateral (international)	16 July 1970
13	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I)	Multilateral (international)	17 April 1990
14	Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts (Protocol II)	Multilateral (international)	17 April 1990

There exist draft conventions relating to this subject which Yemen intends to conclude multilaterally with a group of Arab States (Convention against Organized Crime across Arab Borders) or with international parties (International Convention against Transnational Organized Crime, International Convention against Corruption) or bilaterally with both Arab and non-Arab States, such as Egypt, Algeria, the Sudan, Djibouti, the Syrian Arab Republic, the Democratic People's Republic of Korea and India.

There is no specific or fixed legal time frame within which a request for judicial assistance must be met. However, immediately upon the receipt of a request, the requisite legal steps are taken to comply with it on an urgent basis.

The average time actually taken in practice to implement such a request in Yemen depends on the magnitude and nature of the case for which judicial assistance is requested. It generally ranges from 1 to 12 months and may be longer.

Paragraph 2 (g)

Response

A narcotics control agency has been created.

Coordination with specialized agencies takes place through the liaison offices of the Council of Arab Ministers of the Interior and the central national Interpol bureaux.

Lists of drug traffickers and terrorist groups are exchanged by way of bilateral cooperation in order to prevent their movement.

The civil status agencies have begun work on a project for the computerized issuance of identity cards, using advanced technologies to prevent falsification. Similarly, the Department of Immigration and Passports has worked on the issuance of passports using a secure system that prevents falsification.

A point-of-entry control system is currently being set up, based on the use of state-of-the-art systems.

The control of unauthorized border crossings involves cooperation and coordination with neighbouring States to which Yemen is bound by bilateral cooperation agreements.

Paragraph 3 (d)

Response

Yemen, ever since its ratification, in March 1983, of the Convention for the Suppression of Unlawful Seizure of Aircraft, has spared no effort to enact national legislation to bring its legal texts into harmony with the international conventions and agreements to which it is a party.

Paragraph 3 (e)

Response

A law is enacted in respect of every international convention acceded to or ratified by Yemen, which consequently becomes part of national law.

The offences set forth in international conventions have been included in the articles of the bilateral treaties concluded by Yemen with other States.

Paragraph 3 (g)

Response

The legal basis for the extradition of criminals in Yemen lies in the bilateral and multilateral international treaties and conventions to which Yemen is a party, since by virtue of their very ratification those instruments become an inseparable part of the domestic legislation of Yemen and hence enforceable.

Yemen makes every effort, through its various judicial, political, legislative and security institutions, to enact legislation or amend its legislation in accordance with those instruments.

The extradition of offenders in Yemen is contingent on the existence of bilateral and multilateral conventions and treaties on the subject.

Under the conventions to which it is a party, Yemen can refuse extradition on political grounds, because one of the fundamental principles of extradition on which those instruments rest is that the offences attributed to the accused must not be political in character.

There is no difference in Yemen's practice between its dealings with States parties to the Arab Convention for the Suppression of Terrorism and its dealings with States not parties. The principle of no extradition for political offences is general.